

House File 2506

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1 3 AN ACT
1 4 RELATING TO ELECTRONIC AND FACSIMILE PRESCRIPTIONS AND MAKING
1 5 PENALTIES APPLICABLE.
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1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 9 Section 1. Section 124.101, Code 2003, is amended by
1 10 adding the following new subsections:
1 11 NEW SUBSECTION. 13A. "Electronic prescription" means a
1 12 prescription which is transmitted by a computer device in a
1 13 secure manner, including computer-to-computer transmission and
1 14 computer-to-facsimile transmission.
1 15 NEW SUBSECTION. 13B. "Facsimile prescription" means a
1 16 prescription which is transmitted by a device which sends an
1 17 exact image to the receiver.
1 18 Sec. 2. Section 124.308, subsections 1 and 3, Code 2003,
1 19 are amended to read as follows:
1 20 1. Except when dispensed directly by a practitioner, other
1 21 than a pharmacy, to an ultimate user, no controlled substance
1 22 in schedule II may be dispensed without the written
1 23 prescription of a practitioner or without the electronic or
1 24 facsimile prescription of a practitioner in accordance with
1 25 subsection 1A.
1 26 3. Except when dispensed directly by a practitioner, other
1 27 than a pharmacy, to an ultimate user, a controlled substance
1 28 included in schedule III or IV, which is a prescription drug
1 29 as determined under chapter 155A, shall not be dispensed
1 30 without a written or oral prescription of a practitioner or
1 31 without an electronic or facsimile prescription in accordance
1 32 with subsection 3A. The prescription may not be filled or
1 33 refilled more than six months after the date thereof or be
1 34 refilled more than five times, unless renewed by the
1 35 practitioner.
2 1 Sec. 3. Section 124.308, Code 2003, is amended by adding
2 2 the following new subsections:
2 3 NEW SUBSECTION. 1A. A practitioner, other than a
2 4 pharmacy, or a practitioner's authorized agent may transmit an
2 5 electronic prescription or facsimile prescription to a
2 6 pharmacy for a schedule II controlled substance, provided that
2 7 the electronic prescription complies with section 155A.27 and
2 8 provided that the original signed prescription is presented to
2 9 the pharmacist prior to the dispensing of the schedule II
2 10 controlled substance. If permitted by federal law, and in
2 11 accordance with federal requirements, the electronic or
2 12 facsimile prescription shall serve as the original signed
2 13 prescription and the practitioner shall not provide the
2 14 patient or the patient's authorized representative with a
2 15 signed, written prescription.
2 16 NEW SUBSECTION. 3A. A practitioner, other than a
2 17 pharmacy, or the practitioner's authorized agent may transmit
2 18 an electronic prescription or a facsimile prescription to a
2 19 pharmacy for a schedule III, IV, or V controlled substance,
2 20 provided that the prescription complies with section 155A.27,
2 21 and provided that the original signed prescription is
2 22 presented to the pharmacist prior to the dispensing of the
2 23 controlled substance, or if the prescription is electronic, an
2 24 oral prescription or a facsimile prescription is provided. If
2 25 permitted by federal law, and in accordance with federal
2 26 requirements, the electronic or facsimile prescription shall
2 27 serve as the original signed prescription and the practitioner
2 28 shall not provide the patient or the patient's authorized
2 29 representative with a signed, written prescription.
2 30 Sec. 4. Section 126.2, Code 2003, is amended by adding the
2 31 following new subsections:
2 32 NEW SUBSECTION. 8A. "Electronic prescription" means a
2 33 prescription which is transmitted by a computer device in a
2 34 secure manner, including computer-to-computer transmission and
2 35 computer-to-facsimile transmission.
3 1 NEW SUBSECTION. 8B. "Facsimile prescription" means a
3 2 prescription which is transmitted by a device which sends an
3 3 exact image to the receiver.
3 4 Sec. 5. Section 126.11, subsection 3, paragraph a,
3 5 unnumbered paragraph 2, Code 2003, is amended to read as

3 6 follows:

3 7 Such a drug shall be dispensed only upon a written,
3 8 electronic, or facsimile prescription of a practitioner
3 9 licensed by law to administer the drug, or upon an oral
3 10 prescription of such a practitioner which is reduced promptly
3 11 to writing and filed by the pharmacist, or by refilling any
3 12 such written, electronic, facsimile, or oral prescription if
3 13 the refilling is authorized by the prescriber either in the
3 14 original written, electronic, or facsimile prescription or by
3 15 oral order which is reduced promptly to writing and filed by
3 16 the pharmacist. The act of dispensing a drug contrary to this
3 17 paragraph while the drug is held for sale results in the drug
3 18 being misbranded.

3 19 Sec. 6. Section 126.11, subsection 3, paragraph b, Code
3 20 2003, is amended to read as follows:

3 21 b. A drug dispensed by filling or refilling a written,
3 22 electronic, facsimile, or oral prescription of a practitioner
3 23 licensed by law to administer the drug is exempt from section
3 24 126.10, except subsection 1, subsection 9, paragraphs "b" and
3 25 "c", and subsections 11 and 12, and the packaging requirements
3 26 of subsections 7, 8, and 16, if the drug bears a label
3 27 containing the name and address of the dispenser, the date of
3 28 the prescription or of its filling, the name of the
3 29 prescriber, and, if stated in the prescription, the name of
3 30 the patient, and the directions for use and cautionary
3 31 statements, if any, contained in the prescription. This
3 32 exemption does not apply to a drug dispensed in the course of
3 33 the conduct of the business of dispensing drugs pursuant to
3 34 diagnosis by mail, or to a drug dispensed in violation of
3 35 paragraph "a" of this subsection.

4 1 Sec. 7. Section 126.11, subsection 3, Code 2003, is
4 2 amended by adding the following new paragraph:
4 3 NEW PARAGRAPH. f. All electronic or facsimile
4 4 prescriptions transmitted under this section shall comply with
4 5 section 155A.27.

4 6 Sec. 8. Section 147.107, subsection 2, unnumbered
4 7 paragraph 3, Code Supplement 2003, is amended to read as
4 8 follows:

4 9 A physician, dentist, or podiatric physician who dispenses
4 10 prescription drugs, other than drug samples, pursuant to this
4 11 subsection, shall offer to provide the patient with a written
4 12 prescription that may be dispensed from a pharmacy of the
4 13 patient's choice or offer to transmit the prescription orally,
4 14 electronically, or by facsimile in accordance with section
4 15 155A.27 to a pharmacy of the patient's choice.

4 16 Sec. 9. Section 147.108, subsection 1, Code 2003, is
4 17 amended to read as follows:

4 18 1. A person shall not dispense or adapt contact lenses
4 19 without first receiving authorization to do so by a written,
4 20 electronic, or facsimile prescription, except when authorized
4 21 orally under subsection 2, from a person licensed under
4 22 chapter 148, 150, 150A, or 154. The board of optometry
4 23 examiners shall adopt rules relating to electronic or
4 24 facsimile transmission of a prescription under this section.

4 25 Sec. 10. Section 147.109, subsection 1, Code 2003, is
4 26 amended to read as follows:

4 27 1. A person shall not dispense or adapt an ophthalmic
4 28 spectacle lens or lenses without first receiving authorization
4 29 to do so by a written, electronic, or facsimile prescription
4 30 from a person licensed under chapter 148, 150, 150A, or 154.
4 31 For the purpose of this section, "ophthalmic spectacle lens"
4 32 means one which has been fabricated to fill the requirements
4 33 of a particular spectacle lens prescription. The board of
4 34 optometry examiners shall adopt rules relating to electronic
4 35 or facsimile transmission of a prescription under this
5 1 section.

5 2 Sec. 11. Section 155A.3, Code 2003, is amended by adding
5 3 the following new subsections:

5 4 NEW SUBSECTION. 15A. "Electronic order" or "electronic
5 5 prescription" means an order or prescription which is
5 6 transmitted by a computer device in a secure manner, including
5 7 computer-to-computer transmission and computer-to-facsimile
5 8 transmission.

5 9 NEW SUBSECTION. 15B. "Facsimile order" or "facsimile
5 10 prescription" means an order or prescription which is
5 11 transmitted by a device which sends an exact image to the
5 12 receiver.

5 13 Sec. 12. Section 155A.3, subsection 31, Code 2003, is
5 14 amended to read as follows:

5 15 31. "Prescription drug order" means a written, electronic,
5 16 or facsimile order from a practitioner or an oral order from a

5 17 practitioner or the practitioner's authorized agent who
5 18 communicates the practitioner's instructions for a
5 19 prescription drug or device to be dispensed.
5 20 Sec. 13. Section 155A.23, subsection 1, paragraph b, Code
5 21 2003, is amended to read as follows:
5 22 b. Forgery or alteration of a written, electronic, or
5 23 facsimile prescription or of any written, electronic, or
5 24 facsimile order.
5 25 Sec. 14. Section 155A.23, subsection 4, Code 2003, is
5 26 amended to read as follows:
5 27 4. Make or utter any false or forged oral, written,
5 28 electronic, or facsimile prescription or oral, written,
5 29 electronic, or facsimile order.
5 30 Sec. 15. Section 155A.27, subsection 1, unnumbered
5 31 paragraph 1, Code 2003, is amended to read as follows:
5 32 If written, ~~or~~ electronic, or facsimile shall contain:
5 33 Sec. 16. Section 155A.27, Code 2003, is amended by adding
5 34 the following new subsections:
5 35 NEW SUBSECTION. 1A. If electronic:
6 1 a. The practitioner shall ensure that the electronic
6 2 system used to transmit the electronic prescription has
6 3 adequate security and system safeguards designed to prevent
6 4 and detect unauthorized access, modification, or manipulation
6 5 of the prescription.
6 6 b. The practitioner shall provide verbal verification of
6 7 the electronic prescription upon the request of the pharmacy.
6 8 NEW SUBSECTION. 1B. a. If facsimile, in addition to the
6 9 requirements of subsection 1, shall contain all of the
6 10 following:
6 11 (1) The identification number of the facsimile machine
6 12 which is used to transmit the prescription.
6 13 (2) The time and date of transmission of the prescription.
6 14 (3) The name, address, telephone number, and facsimile
6 15 number of the pharmacy to which the prescription is being
6 16 transmitted.
6 17 b. A practitioner shall provide verbal verification of the
6 18 facsimile prescription upon the request of the pharmacy.
6 19 Sec. 17. Section 155A.32, subsections 1 and 3, Code 2003,
6 20 are amended to read as follows:
6 21 1. If an authorized prescriber prescribes, ~~either~~ in
6 22 writing, electronically, by facsimile, or orally, a drug by
6 23 its brand or trade name, the pharmacist may exercise
6 24 professional judgment in the economic interest of the patient
6 25 by selecting a drug product with the same generic name and
6 26 demonstrated bioavailability as the one prescribed for
6 27 dispensing and sale to the patient. If the cost of the
6 28 prescription or any part of it will be paid by expenditure of
6 29 public funds authorized under chapter 249A, the pharmacist
6 30 shall exercise professional judgment by selecting a drug
6 31 product with the same generic name and demonstrated
6 32 bioavailability as the one prescribed for dispensing and sale.
6 33 If the pharmacist exercises drug product selection, the
6 34 pharmacist shall inform the patient of the savings which the
6 35 patient will obtain as a result of the drug product selection
7 1 and pass on to the patient no less than fifty percent of the
7 2 difference in actual acquisition costs between the drug
7 3 prescribed and the drug substituted.
7 4 3. If selection of a generically equivalent product is
7 5 made under this section, the pharmacist making the selection
7 6 shall note that fact and the name of the manufacturer of the
7 7 selected drug on the prescription presented by the patient or
7 8 the patient's adult representative or transmitted by the
7 9 prescriber or the prescriber's authorized agent.

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7 14 CHRISTOPHER C. RANTS
7 15 Speaker of the House
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7 19 JEFFREY M. LAMBERTI
7 20 President of the Senate

7 21 I hereby certify that this bill originated in the House and
7 22 is known as House File 2506, Eightieth General Assembly.
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7 25 _____
7 26 MARGARET THOMSON
7 27 Chief Clerk of the House

7 28 Approved _____, 2004
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7 31 _____
7 32 THOMAS J. VILSACK
7 33 Governor